

ARKANSAS ETHICS COMMISSION

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ADVISORY OPINION NO. 2006-EC-003 Issued February 17, 2006

The Arkansas Ethics Commission has received a written advisory opinion request from Kathleen McQueen of the Secretary of State's office. The question asked is whether or not a person who has filed an annual Statement of Financial Interest ("SFI") for a particular year is required to file an amended SFI for that year if he or she is appointed to a board or commission during the following year.

For example, if a person filed a SFI for calendar year 2005 in his or her capacity as a public official and was appointed to a state board or commission in 2006, would such person be required to file an amended SFI for 2005 reflecting the reason for filing as both "public official" and "public appointee to a state board or commission."

The categories of persons required to file a SFI are listed in Ark. Code Ann. § 21-8-701(a). The first category on that list is "[a] public official."^[1] The fifth category is "[a]ny public appointee^[2] to any state board or commission that is authorized or charged by law with the exercise of regulatory authority or is authorized to receive or disburse state or federal funds." Ark. Code Ann. § 21-8-701(c)(1)(A) requires that a SFI for the previous calendar year be filed by January 31 of each year, and public appointees are required to file the SFI within thirty (30) days after appointment.

^[1] The term "public official" is defined in Ark. Code Ann. § 21-8-402(17) to mean: a legislator or any other person holding an elective office of any governmental body, whether elected or appointed to the office, and shall include such persons during the time period between the date they were elected and the date they took office.

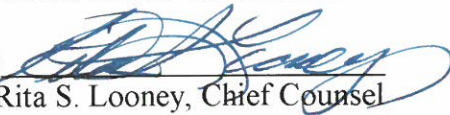
^[2] The term "public appointee" is defined in Ark. Code Ann. § 21-8-402(15) to mean: an individual who is appointed to a governmental body. It does not include an individual appointed to an elective office.

In accordance with Ark. Code Ann. § 21-8-703(a)(1), a state or district “public servant” who is required to file a SFI makes his or her filings with the Secretary of State. Public appointees are specifically included in the definition of public servant set forth in Ark. Code Ann. § 21-8-402 (18).

It is noted that Ark. Code Ann. § 21-8-701(c)(2) provides that any incumbent officeholder who filed a SFI by January 31 of the year in which the election is held is not required to file an additional SFI upon becoming a candidate for reelection or election to another office at any election held during the year. However, there is no similar provision addressing the situation in which a public official who filed a SFI is subsequently appointed to a board or commission. Accordingly, it is the Commission’s opinion that a person who has filed a SFI as state or district public servant is required to amend the filing within 30 days of being appointed to a state board or commission to also reflect his or her status as a public appointee.

This advisory opinion is issued by the Commission pursuant to Ark. Code Ann. § 7-6-217(g)(2).

Arkansas Ethics Commission

By: 
Rita S. Looney, Chief Counsel